

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of the Cable)
Television Consumer Protection and)
Competition Act of 1992)

Broadcast Signal Carriage Issues)

MM Docket No. 92-259

Comments of
Turner Broadcasting System, Inc. on
Tribune Broadcasting Company's Petition
for Reconsideration and/or Clarification

Turner Broadcasting System, Inc. ("Turner"), which, inter alia, operates WTBS, Atlanta, Georgia, files this short paper to comment on the petition for reconsideration and/or clarification of Tribune Broadcasting Company ("Tribune"). Tribune asks the Commission to clarify that the exception to retransmission consent contained in 47 U.S.C. § 325(b)(2)(D) and implementing it into new 47 C.F.R. § 76.64(b)(2) "applies only to out-of-market retransmission of superstations' signal via satellite."^{1/} Tribune is right, but there really is no real need for any reconsideration or clarification. There can be no doubt but that the so-called "superstation exception" to retransmission consent only applies to out-of-market situations.

First of all, Section 6 of the Cable Act indicates that all commercial television stations have retransmission consent rights. 47 U.S.C. § 325. If Congress intended superstations to have no retransmission consent rights, it could have done so by limiting the basic grant of rights, instead of creating the limited superstation exception in a separate subsection.

^{1/}INTV has raised the same point in its petition for reconsideration.

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No broadcast station is a superstation in the market to which it is licensed. Section 325 expressly states that a superstation should have the meaning given to it in Section 119 of the Copyright Act, 17 U.S.C. § 119(d). It is clear that the copyright definition of superstation in Section 119 applies only to out-of-market secondary transmissions of broadcast stations. Quite simply, WTBS, for example, is not a superstation in Atlanta. And WTBS is, in fact, electing its retransmission consent option in the Atlanta market.

That this understanding is the Commission's as well is confirmed in the Public Notice of Questions and Answers published to assist in implementing rate regulation, in which the discussion makes clear that superstations refer to out-of-market carriage of broadcast stations. See Public Notice, dated May 13, 1993, Question and Answer 17.

In short, the Tribune petition is actually superfluous. If the Commission takes any action at all, it should merely confirm the obvious -- that all commercial broadcast stations have retransmission consent rights in the markets to which they are licensed.

Respectfully submitted

Bruce D. S. D.

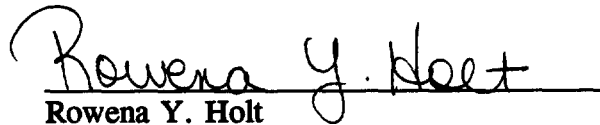
CERTIFICATE OF SERVICE

I, Rowena Y. Holt, a secretary in the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., hereby certify that a copy of the foregoing Comments on Turner Broadcasting System, Inc. on Tribune Broadcasting Company's Petition for Reconsideration and/or Clarification was served, by first-class mail, postage prepaid, on the following:

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This 7th day of June, 1993.


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